

Legal Division Guidance 2010-10-01

(NOL Suspension -- SB 858)

Q1: Do the NOL suspension rules under SB 858 (Stats. 2010, ch. 721) apply to a loss incurred by a taxpayer in a farming business attributable to Pierce's disease under RTC sections 17276.7 and 24416.7?

A1: Yes, NOLs under RTC sections 17276.7 and 24416.7 are specifically suspended under RTC sections 17276.21(a) and 24416.21(a).

Q2: Does the suspension of NOLs under SB 858 apply to excess disaster losses under RTC section 17207?

A2: No. An excess disaster loss under RTC section 17207(e) may not be taken into account in computing a net operating loss deduction under Section 172 of the Internal Revenue Code. Since an excess disaster loss under RTC section 17207 is not a net operating loss, the suspension of deductions for net operating losses has not impact on the deductibility of those excess disaster losses.